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C O N F I D E N T I A L SECTION 01 OF 03 BUCHAREST 000747

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SUBJECT: EC FRUSTRATED BY NEW ROMANIAN CORRUPTION AGENCY'S
FACADE

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Classified By: Political Counselor Ted Tanoue FOR REASONS 1.4 (B) & (D)

¶1. (C) Summary. Romania's National Integrity Agency (ANI), the last major anti-corruption effort that the GOR promised before acceding to the EU, was formally established last month. While the European Commission is unhappy with Romanian backsliding in the fight against corruption, its monitoring report on Romania and Bulgaria to be released on June 27 will hold off from imposing any sanctions, while continuing the EC's current monitoring of Romania's Justice system. After some public--and reportedly heated private--comments from EC Vice President Franco Frattini expressing frustration with the watered-down ANI law, Justice Minister Tudor Chiuariu amended the law through an emergency ordinance after the law was published in an attempt to respond to those concerns. Despite the last-minute cosmetics, the amended ANI law along with Chiuariu's attempt to dismiss a top anti-corruption prosecutor, have continued to raise concerns about the current Romanian government's commitment to fighting corruption. President Basescu, whatever his flaws, appears to be one of the few high-level Romanian politicians willing to push on the anticorruption issue. End summary.

¶2. (C) The National Integrity Agency (ANI) was touted publicly by Justice Minister Tudor Chiuariu and Prime Minister Calin Popescu Tariceanu as evidence of the Liberal-led government's continuing commitment to anticorruption efforts. At the time when newly appointed Justice Minister Chiuariu called for the dismissal of the National Anticorruption Directorate's (DNA) chief prosecutor of high-level corruption cases, Doru Tulus (reftel A), Chiuariu rushed through parliament the law establishing the ANI. Chiuariu claimed that passage of the ANI law was proof he was "more effective" than former Justice Minister Monica Macovei in working with parliament to pass this long-promised law that was a key criteria for Romania's EU accession. The Senate overwhelmingly adopted the ANI law May 9, and Senate President Vacaroiu (PSD) claimed it was his greatest accomplishment while acting as Interim President during the month-long suspension of President Basescu. European observers, however, were unimpressed. According to many observers, the new law actually prevents the National Integrity Agency from fulfilling its original intent of providing a public check on the rampant growth of officials' wealth while in office.

EU's Limited Influence

13. (C) The first major change in the law establishing ANI was the change of one key word, "unjustified," to "illicit." According to anticorruption experts, the Integrity Agency was originally intended to shed light on the "grey area" of officials' accumulation of wealth while in office. It was not to have prosecutorial responsibility to prove the "illicit" sources of the assets gained, but to determine whether wealth had grown beyond an official's ability to justify from legitimate income. Any sanction would be left up to the state body that the official belonged to, and officials had the right to challenge the ANI's findings in court. Dragos Tudorache, the EC Delegation's former task manager on corruption who just moved to the EC's Directorate General for Justice in Brussels, characterized the word change as "a sly lawyer's trick" that would put "the burden on the ANI to prove the illegal nature of the assets." As to how the EU would respond, Tudorache predicted little more than "cautious diplomatic language from the EU," noting that the Europeans would be loath to create the impression of interference in Romanian internal politics. However, EC Justice Commissioner Franco Frattini subsequently underlined in a newspaper interview that he had "already discussed twice" with Justice Minister Chiuariu his concerns about violating the DNA prosecutors' independence and about the modifications of the ANI legislation. He added that he would "analyze in detail" the ANI law since it was "adopted in a different version than officials in Brussels expected."

14. (C) In response to this pressure, Chiuariu introduced an emergency ordinance on May 28 that, among the other changes which Chiuariu publicly touted as strengthening the law, quietly changed the text back to "unjustified." European officials, however, viewed this concession as a temporary fix that could be undone easily whenever the emergency ordinance would be brought before the parliament for a vote. One

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British diplomat responsible for justice and home affairs asked PolOff, "Do they take us for fools?" noting how the Liberal government was openly touting the mangled National Integrity Agency as the primary successful example of its commitment to continuing anticorruption efforts.

Potemkin Facade

15. (C) Former Justice Ministry Anticorruption Director Laura Stefan, who resigned in protest to the Justice Minister's actions against the DNA (ref A) told PolOff about other changes that would hinder the Integrity Agency from functioning effectively. While the original version enabled whistleblowers to remain anonymous when notifying the Agency of officials' conspicuous growth in wealth, the law now limits notification to "interested persons," i.e. specifically identified persons who have some financial interest involving the official. Further, the new law prevents investigation of officials who have left office, which means investigations of their asset growth while in office must cease as soon as they leave.

16. (C) The new law also subordinates the Integrity Agency to the Senate. Thus, rather than making it an independent body which can hold parliamentarians accountable, the ANI is now accountable to the Senate instead. The Senate will appoint the ANI's board, and the new law defines conflict of interest in terms of the "first degree" - a parent or a child - rather than the prior "second degree," which included siblings and other relatives. Stefan insisted that the only part of the law that was not completely toothless was the definition of "incompatibilities," the private functions officials cannot maintain while holding certain offices. However, Stefan added that parliamentarians exempted the function of lawyer from parliamentarians' incompatibilities, enabling them to practice law privately while writing laws publicly.

17. (C) Former MOJ State Secretary Ionut Codescu, who also

recently resigned from his position in protest, told PolOff and RLA on May 16 that the law also restricts the ANI to investigating assets only with the consent of the person in question; otherwise it is limited to just reviewing officials' declarations of assets. He added that it was former Justice Minister Macovei who requested the EC to continue monitoring Romania's progress in justice after EU accession, since the backlash against anticorruption reforms was clearly visible well before accession and the then Justice Minister thought only external pressure could enable further reform.

EU's June 27 Monitoring Report: Continue Monitoring

18. (C) The EC Delegation's DCM Onno Simons told PolOff that Chiuariu's National Integrity Agency was a "non-starter" in fulfilling the EC benchmark for monitoring progress in Romania's justice system. Simons claimed his progress report to the EC, which forms the basis for the EC's June 27 Monitoring Report on Romania, outlined 8-9 areas of difficulty with the current law. He described the ANI as "perhaps not a paper tiger, but a cardboard one." Simons said that "belatedly" there was "some pressure from five member states" who previously argued to "let Romania in...with homework," but who "now see serious political problems." While Simons said the conclusions of the Monitoring Report had not been drawn, he added that "verifications of benchmarks will go on" and that all four of Romania's benchmarks would remain. He said Romanian European Commissioner Leonard Orban was also concerned.

Basescu Continuing to Push Reform Agenda

19. (C) In a June 7 meeting with a visiting U.S. delegation, Presidential Counselor Teodor Baconschi argued that "new political leadership was needed" in order "to make Romania a valid member state in the EU." He argued that the "heritage of the Communist regime was present everywhere" and that "we can't go forward with it." He said President Basescu was working hard to get a clearer formula for governing Romania, commenting "We can't stand this political crisis enduring until the next (parliamentary) elections in late 2008 or early 2009." Baconschi said that despite the appearance of a personal conflict between the President and Prime Minister, it was "the result of an unclear Constitution and the political system we got after communism."

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110. (C) Baconschi also noted the need to promote a "soft political revolution" as the 1989 Revolution was "a false one, stolen by the nomenclatura." As an aside, Baconschi blamed Western complicity, asking rhetorically, "What are you doing with false friends?" He said Romania needed to become a "new state without dangerous connections between big money and state institutions." He asserted there were "Four to six very strong people behind the current Tariceanu government, controlling everything in this country." He added that he believed Basescu was the "right person at the right time" to achieve this "soft revolution" as he was the head of state, Romania's most popular politician, and one who had taken on "a personal mantle" to attack the oligarchs and high-level corruption.

111. (C) Comment: The GOR is now rushing to actually set up the National Integrity Agency by the fall. However, this exercise appears little more than a half-hearted effort to fulfill a commitment to the EU in a way that does not seriously threaten the traditional propensity of the Romanian political class to mix business and politics. Informed Western observers have been unimpressed with the GOR's latest efforts. But as confirmed in the release of the long-awaited report on June 27, the EC wields no stick that can effectively sanction backsliding, apart from continuing its

monitoring activities and offering public and private criticism. The majority of the current parliament was pleased by Macovei's removal and not discontent with the more predictable Chiuariu. President Basescu appears to be the only major political actor willing to push on the anticorruption front, as evidenced by his effective use of the issue during his campaign to return to office following his suspension. End Comment.

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